

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Wyman Analyst: Darrine Distefano Bill Number: AB 1862Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: 05-16-2002Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_**SUBJECT:** Credit for Employee Benefits Paid to Employees Who Are On Active Duty With National Guard or Military Reserve On or After 9/11/2001

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended May 6, 2002.☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 31, 2002, AND AMENDED May 6, 2002, STILL APPLIES.☒ OTHER - See comments below.**SUMMARY**

This bill would allow a credit for wages paid to a qualified employee who is on active duty as a result of Operation Enduring Freedom or any successor military action, including homeland defense.

**SUMMARY OF AMENDMENT**

The May 16<sup>th</sup> amendments made the following changes:

- Revised the credit amount from 100% to 50% of the benefits paid to an employee during the taxable year.
- Added a cap of \$75,000 to the credit amount.
- Limited the credit to a qualified employee whose services for the employer were performed primarily within California.
- Added a definition of military pay and allowances.
- Added a carryover provision of eight years.

The amendments resolved the implementation considerations raised in the department's analysis of the bill dated January 31, 2002. The amendments raise an additional implementation consideration. Also, the amendments did not resolve the two technical considerations raised in the department's analysis of the bill as amended May 6<sup>th</sup> or a policy concern raised in the original analysis. The remaining policy concern and technical considerations are repeated below for convenience. In addition, a new revenue estimate is provided below due to the revision of the credit percentage. The remainder of the department's analysis dated January 31, 2002, still applies.

Board Position:

<input type="checkbox"/> S	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

6/4/02

## POSITION

Neutral, if amended.

On March 25, 2002, the Franchise Tax Board voted 2-0 to be neutral on this bill if it is amended to resolve the policy and implementation concerns addressed in the analysis of the bill as introduced on January 31, 2002.

### Summary of Suggested Amendments

Amendments have been provided to correct the technical considerations.

## IMPLEMENTATION CONSIDERATION

It is not clear if the cap of \$75,000 is the total amount of benefits paid or incurred per employee or per employer. To avoid confusion, the author may wish to use the term "per employee" or "per employer" to clarify who the cap applies to.

## TECHNICAL CONSIDERATIONS

The word "active" is repeated twice in one place. Amendment 1 is provided to eliminate the redundancy.

The bill identifies "homeland defense" as a successor to Operation Enduring Freedom. Amendments 2 and 3 are provided to ensure that benefits paid by employers to all employees called up for homeland defense are eligible for the credit.

## ECONOMIC IMPACT

### Revenue Estimate

Based on the discussion below, this bill would result in revenue as shown in the following table:

Revenue Impact of AB1862 As Amended May 16, 2002 For Taxable Years Beginning On Or After 1/1/2002 Fiscal Year Impact (In Millions)		
2002-3	2003-4	2004-5
-\$20	-\$10	-\$5

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

### Revenue Discussion

The impact of this bill would depend upon; (1) the number of employers incurring qualifying expenses for benefits paid to employees who are on active duty during the taxable year and (2) the average credit applied against tax liabilities.

The above estimates is based on the original version of this bill, reduced by \$1 million annually to allow for the \$75,000 credit cap under this amendment and to allow for the percentage reduction in the amount of credit allowed (from 100% to 50%). In addition, the revised estimates includes a loss of approximately \$2 million annually, attributable to Homeland Security military personnel in California (500 personnel times an average employer credit of \$5,000).

Based on the actual number of reservists and National Guard called to active duty to date in California for Operation Enduring Freedom, it is estimated that approximately 6,500 personnel years of reservists and National Guard would be on active duty in 2002. For 2003, it was assumed that one fourth as many would be called for active duty, and for 2004 and thereafter, it was assumed that a minimal number of reservist and National Guard would be called as a result of Operation Enduring Freedom or any successor military action.

According to information from various sources, it is estimated that the number of reservist and National Guard called to active duty would decline significantly over time for the above military action. If, however, additional personnel are called to active duty in 2002 or thereafter, the revenue impact could be much greater.

### **ARGUMENTS/POLICY CONCERNS**

This bill would not benefit self-employed taxpayers who also are called to active duty. A taxpayer who is self-employed will not be able to take a credit on the benefits paid as defined in the bill. Thus, this bill would provide differing treatment based solely on entity classification.

### **LEGISLATIVE STAFF CONTACT**

Darrine Distefano  
Franchise Tax Board  
845-6458  
[Darrine.Distefano@ftb.ca.gov](mailto:Darrine.Distefano@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
845-6333  
[Brian.Putler@ftb.ca.gov](mailto:Brian.Putler@ftb.ca.gov)

Analyst	Darrine Distefano
Telephone #	845-6458
Attorney	Patrick Kusiak

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1862  
As Amended May 16, 2002

AMENDMENT 1

On page 2, line 9, after "to" strikeout "active"

Amendment 2

On page 2, line 17, strikeout: ", including homeland defense." and insert:  
or for homeland defense.

Amendment 3

On page 3, line 24, strikeout: ", including homeland defense." and insert:  
or for homeland defense.